



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: February 8, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: APM000000002598

[REDACTED]

Dear [REDACTED],

On February 2, 2016, your spouse appeared on your behalf by telephone at a hearing on your appeal of NY State of Health Marketplace's April 23, 2015 disenrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: February 8, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: APM00000002598

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that your enrollment in the EssentialCare Silver plan ended May 31, 2015?

## Procedural History

On December 4, 2014, an eligibility determination notice was issued stating that you were eligible to enroll in a qualified health plan; eligible to receive up to \$84.00 per month in advance premium tax credits; and, if you enrolled in a silver-level health plan, newly eligible to receive cost-sharing reductions. This eligibility was effective January 1, 2015.

On December 17, 2014, the Marketplace issued a notice confirming your enrollment in the EssentialCare Silver plan as of December 15, 2014. The notice further stated that if you paid your first month's premium, your coverage could start as early as January 1, 2015.

On April 23, 2015, a disenrollment notice was issued that stated your insurance coverage under EssentialCare Silver plan would end on May 31, 2015.

On April 25, 2015, you or your spouse spoke to the Marketplace's Account Review Unit and appealed the disenrollment notice insofar as it terminated your coverage under your qualified health plan on May 31, 2015 and not on March 31, 2015.

On February 2, 2016, your spouse had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) Your Marketplace account reflects that you enrolled in the EssentialCare Silver plan on January 1, 2015 with an expiration date of December 31, 2015.
- 2) Your spouse testified that she requested to terminate your coverage through the Marketplace on April 21, 2015 because you had obtained employer-sponsored insurance with an effective date of April 1, 2015, when you had expected that health insurance coverage to start May 1, 2015.
- 3) Your spouse also testified that the premiums were paid to Health Republic Insurance of New York, Inc. by direct withdrawal and that the EssentialCare premiums for the months of April 2015 and May 2015 in the amount of \$211.22 per month were withdrawn in advance of the due dates.
- 4) Your spouse testified that you are only seeking reimbursement in the amount of \$211.22 for the May 2015 premium payment in fairness.
- 5) Your spouse testified that Health Republic of New York, Inc. has already declined to refund you for this amount because reasonable notice was not provided.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or qualified health plan (45 CFR § 155.430(b)(1), (d)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that the coverage provided by your qualified health plan was properly terminated on May 31, 2015.

Enrollees must be allowed to terminate their coverage with a qualified health plan if they provide appropriate notice to the Marketplace or to their qualified health plan.

Your spouse testified that you paid all of the premiums for your EssentialCare plan for the months of January 2015 through May 2015. Your spouse also testified that she sought to terminate your health care coverage through the Marketplace on April 21, 2015, because you obtained employer-sponsored insurance effective April 1, 2015. The record reflects that the Marketplace set forth an expiration date of May 31, 2015 for your EssentialCare Silver plan. Your spouse testified that you had wanted a termination date of March 31, 2015, since your employer sponsored insurance began April 1, 2015; however, would agree to a April 30, 2015 termination date in fairness. As per the regulation, reasonable notice would have required you to make your termination request on or before March 17, 2015, 14 days prior to your requested termination date of March 31, 2015 or by April 16, 2015, 14 days prior to an April 30, 2015 termination date according to your spouse's testimony. Although your spouse credibly testified that she requested termination on April 21, 2015, upon learning that your employer-sponsored health insurance was set to start on April 1, 2015, the earliest the Marketplace could set the cancellation date was May 31, 2015.

Since you did not provide reasonable notice to the Marketplace or to your qualified health plan, your coverage cannot be terminated effective March 31, 2015 or April 30, 2015. Health Republic Insurance of New York, Inc. would have to agree to effectuate termination of your coverage if you wanted your coverage terminated on April 30, 2015, and your premium refunded for May 2015.

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Therefore, the Marketplace's April 23, 2015 disenrollment notice is AFFIRMED in that it stated your insurance coverage with EssentialCare Silver terminated effective May 31, 2015.

Ordinarily, we would suggest you contact Health Republic Insurance of New York, Inc. to see if they would agree to effectuate your disenrollment with an earlier date than you provided notice for and refund you the premium paid for May 2015.

However, your spouse testified that Health Republic of New York, Inc. has already declined to refund the May 2015 premium. We note that Health Republic of New York, Inc. ceased doing business in New York, effective November 30, 2015, and its affairs are now being regulated and handled by NY Department of Financial Services.

Since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

## **Decision**

The Marketplace's April 23, 2015 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** February 8, 2016

## **How this Decision Affects Your Eligibility**

Your coverage through EssentialCare Silver ended effective May 31, 2015.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This

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must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The Marketplace's April 23, 2015 disenrollment notice is **AFFIRMED**.

Your coverage through EssentialCare Silver ended effective May 31, 2015.

Since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

